

[Shri Gadgil]

out, whatever help is possible in the way of making information and data available would be given to the Members of the other parties also.

Reference was made that this was putting the Government in the hands of one party. I think any commentary on the political institutions and practices in the U.S.S.R. will show that the Government there and the party are indistinguishable. Therefore, in fact the leftists ought to congratulate the Congress party for having emulated the example of U.S.S.R. The real trouble is that they are suffering from a sense of frustration and they do not appreciate the real motive behind the arrangement that has been evolved.

As regards the Standing Committees, as far as I remember, two were constituted under the Government of India Act, 1935 and the others in pursuance of resolutions passed in the Central Assembly. At that time the Government was irresponsible and irremovable. But at the same time the Government felt the necessity of associating the popular element with the formulation of policy and wanted to share some information, though not power, with the representatives of the people. Therefore, we must bear in mind that the constitution of these advisory committees was a feature of a system of Government which is no longer obtaining today. Today our Government is a parliamentary Government. Therefore, all those precedents and provisions which we find in the constitution of the U.S.A. are irrelevant. There the executive is not responsible to the Legislature. Here, under this Constitution of ours you can fix the responsibility squarely on the Government. The constitution of Standing Committees, in my humble opinion, will affect that central theme of responsibility and it will be, I think, against the spirit of the Constitution as well.

What will be the manner of working of the Standing Advisory Committees, if constituted? Suppose the Members of the Opposition come and agree to anything. Knowing as we do the Leftists, they will go out and on the floor of the House they will use that position as a spring-board for something more. In other words, they will not be able to deliver the goods because they would easily say that those were individual commitments not binding on their respective parties. If, on the other hand they oppose it, obviously the Standing Advisory Committees are useless.

In these circumstances I believe that in the interests of parliamentary executive nothing should be done which will take away, even by a grain, the responsibility of the Government, which must be exclusive. They are responsible for the formulation of the policies and their execution, and if they go wrong the Constitution provides the remedy. Moreover, why should we give the Government an opportunity to say "We consulted you, and the policy has been the result of the consultation with you"? Thus there is a moral obligation to support and I think the Prime Minister is perfectly right when he said that the Government cannot share the responsibility with any other party. Therefore, the grievance of my Leftist friends is not valid, unless they have something else up their sleeve which so far they have not disclosed.

Mr. Speaker: Dr. Meghnad Saha is not here. I wanted to give him an opportunity of making a personal explanation, but unfortunately he is not here. I will proceed to put the motion to the House.

The question is:

"That the Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the service of the financial year 1952-53, be taken into consideration."

The motion was adopted.

Clauses 1 to 2 were added to the Bill.

The Schedule was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Shri C. D. Deshmukh: I beg to move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

12 NOON.

ESSENTIAL GOODS (DECLARATION AND REGULATION OF TAX ON SALE OR PURCHASE) BILL.

Mr. Speaker: The House will now proceed with the further consideration of the motion moved by Shri C. D. Deshmukh on Wednesday, the 28th May, 1952 in respect of the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Bill. The motion is for reference of the Bill to a Select Committee.

The Minister of Finance (Shri C. D. Deshmukh): The motion requires some amendment, Sir, in view of the fact

that the date mentioned there—12th June, 1952—is no longer appropriate.

Mr. Speaker: What is the new date which he proposes?

Shri C. D. Deshmukh: I was thinking that 11th July might be suitable.

Mr. Speaker: So when I put the motion I shall put it in the amended form, that is, substituting "11th July, 1952" in the place of "12th June, 1952".

Shri T. S. A. Chettiar (Tiruppur): This Bill is in pursuance of article 286. When article 286 was moved in the Constituent Assembly there was a lot of discussion over it, because it affected one of the very essential revenues of the Provinces. Most of the Provincial Ministers who were Members of the Constituent Assembly thought that in their own Provinces their revenues would be affected to a considerable extent as sales tax forms the backbone of the revenue in many of the Provinces.

[SHRI PATASKAR in the Chair]

In Madras for instance it was Rs. 15 crores and odd last year. In the course of his speech in the Constituent Assembly Dr. Ambedkar made a suggestion which was really the reason for the fear. I am reading from page 326 of Volume X of those Debates, which refers to the discussion on this clause. He said:

"With regard to sub-clause (3)"—under which this Bill is sought to be introduced—"it has also been agreed that there are certain commodities which are so essential for the life of the community throughout India that they should not be subject to sales tax by the Province in which they are to be found."

Why this article was included in the Constitution was, it was felt that sales tax on certain essential things should not continue to be levied. And this is bound to cause hardship in many places. Now I find that in consultation with the Provincial Governments, the Bill that has been introduced says that "No law made after the commencement of this Act by the legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any goods...etc." That is to say, the existing sales tax will be allowed to remain in all the Provinces as it is. Only, in future, for any increases sought to be made in the sales tax in respect of any of the articles mentioned in the Schedule

they have to get the approval of the President. This allays the fear entertained by the Provinces.

Coming to the Schedule itself, which is the most important part of this Bill, I would like to submit that there are things which are not costly. Salt, for example, is a very essential commodity. The original tax on salt has also been removed. The amount of salt that is consumed individually by people and the cost that is incurred on it are so small that, though it is an essential article, it may not be included under this. On the other hand there are things like books, things which are necessary for education. Education is getting very costly all over the country, and we want to have compulsory elementary education for all and to provide for education at least up to the secondary course for a large number. One way of encouraging education is not to levy any tax on the equipments that are necessary for education. I therefore suggest that things like books may be included under this category.

Coming to certain other things, coarse and medium handloom and mill-made cotton cloth and handloom woollen cloth, I would suggest that the same rule should not be applied to all the categories. Some may be very essential; some may not be so very essential. I would suggest that this principle may be considered by the Select Committee which goes into this Bill.

Then, I would like to refer to item 8 in the Schedule: coal including coke and other derivatives, petroleum and petroleum products, including motor spirit and electrical energy, except energy intended for domestic use. Does that mean that energy intended for domestic use, when it is coal, when it is coke, when it is electricity, can be taxed by the Provincial Governments without reference to this Bill? In the matter of charging electrical energy, in many places, it is domestic consumption that is charged less. That must be for very good reasons. Specifically taxation on energy for domestic use has been excluded from this. I am afraid I am unable to understand the reason why that has been done. I would respectfully suggest to the Select Committee to go through the Schedule more than the Bill itself because the Schedule is the very essence of the Bill. In going through the Schedule, the Select Committee should see that it does not make the Schedule too long, because, every item included in the Schedule affects the taxing capacity of the Provinces. The more they are included, the more the sales tax that may

Shri Chettiar

be levied by Provincial Governments is limited. I would suggest that they should take as few essential products as possible and leave the rest to the Provinces so that the Provinces may have some flexibility in their taxation.

While on this matter, I would like to refer to another implication as regards sales tax. I do not know whether many of my hon. friends in this House are aware that in Madras, and perhaps in one or two other Provinces, not only are the sale of commodities taxed, but contracts are also taxed. Suppose a man works contract for a lakh of rupees or 50,000. Anything about 10,000 or one-third of the amount is taken for cost of the material and two-thirds are taken as the cost of labour. Contract for labour is also taxed. The result of this has been very peculiar. Let me take the dyeing industry—not that the industry is dying. I mean the dyeing of cloth. In this industry, people have a capital of Rs. 1,000. With that sum, they buy colours, dyes, and they execute orders for dyeing yarn, cloth, etc. If they get sufficient orders, it is possible that they may have a turnover of Rs. 10,000. In that turn-over, there may be a profit or there may be a loss. The sales tax does not take into account the loss or profit; it is levied on the orders executed. The amount invested is Rs. 1,000; sales tax is levied on the amount of work that he has done, with the result that in many places, these people who are making a hand-to-mouth living are affected considerably. These people with low incomes and low turn-over, many of them, have broken down. After all, we must encourage in this country labour because labour is wealth. I would request the Select Committee to consider this matter and I suggest that labour should not be taxed.

Shri Velayudhan (Quilon cum Mavelikkara—Reserved—Sch. Castes): I wish to contribute a few points on this occasion when this Essential Goods Bill is being referred to the Select Committee.

The Bill before the House has included in the list of essential articles, in my opinion, certain categories of goods which should have benefited the included. At the same time, it has also omitted many items of consumer goods which should have benefited the community as a whole. Take for example the item in this Schedule: raw cotton, including ginned and unginned cotton or *kapas* or cotton thread, coal, and iron and steel. All these materials are included as essential goods so that Provinces may not tax

them. From the experience in the South, especially in Madras, Travancore-Cochin and Mysore, we find that the States derive a lot of revenue from these items on account of sales tax. If this Bill is passed, the result will be that the finances of the Provinces, which are very meagre even at this stage, will be jeopardised and they will be forced to tax consumer goods. I am afraid that would be the net result of the passing of this Bill. I know the Central Government has had correspondence regarding this question with the State Governments. But, I do not know what were the replies received from the State Governments on this question. From sales tax in Madras, I find that Rs. 64 lakhs have been received last year.

Shri C. D. Deshmukh: Sixty-four lakhs from sales tax in Madras?

Shri Velayudhan: Yes.

Shri C. D. Deshmukh: Very much more; a few crores.

Shri Velayudhan: I am subject to correction.

Therefore, my humble opinion is that the Government should include in this Schedule many items of consumer goods like oils, soap, text-books, as my hon. friend Mr. Avinashilingam Chettiar has said, pencils and so many items which are necessary for the community, for the family as such. Otherwise, I think this Bill will not confer any benefit on the community as a whole. There is no difficulty in taxing the capitalists and the big industrialists in the States, because they have enough finances. Because of this kind of change in the tax structure, it has now become a burden on the poor masses and Government is going to get more and more money only from the masses, about whom the Finance Minister spoke yesterday. My only request to the Finance Minister and to the Select Committee is that they should include so many items of consumer goods like soap, oils, toilets of many varieties which are essential to the middle classes. Take for example silk. It is locally made in Assam, Bengal and Mysore also. If the Government excludes sales tax on that also, I think the community is going to benefit a lot. Otherwise, by this measure, only big businessmen are being benefited and not the community.

These are my points and I hope the Select Committee will take these things into consideration.

Shri S. C. Samanta (Tamluk): I whole-heartedly support the reference

of the Bill to the Select Committee. At the same time, I would like to put some suggestions for the consideration of the hon. Minister in charge of the Bill and the members of the Select Committee.

In the Schedule, in item No. 1, it is mentioned "Cereals and pulses in all forms, including bread and flour, including *atta*, *maida*, *suji* and bran." It is all right, but I find that while derivatives of wheat have been mentioned, derivatives from rice have not been mentioned. So, I would suggest that flattened rice (*chura*) and fried rice (*muri*) should also be added. In this connection, I may mention that in recent months, perhaps two months back, the Bengal Government imposed control over the transportation of flattened rice. So, I would like to make this suggestion.

Then, after "Fresh milk, whole or separate, and milk products", I would like that the Committee should consider adding fish, meat and eggs, and also, as my friend who spoke last mentioned, I would like that edible oils should also be added.

Then, "Coarse and medium handloom and mill-made cotton cloth and handloom woollen cloth" have been mentioned. In this connection, I think it will be better if cotton and woollen piecegoods are also included.

And lastly, I hope that the Committee will consider also about textbooks and teaching materials.

Shri K. C. Sodhia (Sagar): In the Schedule there are included dried fruits. Thus we can have *Kishmish* and other types of dried fruits which are not used by the country people, and the common people without sales-tax. They are used only by monied men, and while provision has been made for these dried fruits, nothing has been done about the ordinary things which all people of this country use—say, *gur*. *Gur* is an article which is used practically by all the people, down from a labourer up to the middle class people. Now, *gur* has been left out. There is no Indian who does not use *ghani* oil at some time or other. That is used by all people—our villagers and labourers and all the poor people. That *ghani* oil has been left out altogether. It is a very necessary article of our diet, and I would request the Finance Minister and the Select Committee to include articles such as *ghani* oil and sugar in it. Sugar also is an article which is now commonly used by our poor people, and I do not see why there should be any additional tax on them, when the Govern-

ment of India realise such a large quantity of money in the shape of excise duties. If these articles are not included in this Bill, well, I am afraid that there will come a time when the Provincial Governments, because they want to amass as much money out of sales tax as possible, will not leave these things without taxes and the poor people whose livelihood is already very troublesome, will become more troublesome. Therefore, I request the Finance Minister and the Select Committee kindly to take these things into their consideration and to include *gur*, sugar, writing paper, oil, ghee and milk products into the list of the Schedule and to exclude these dried fruits from it.

Shri Namblar (Mayuram): I am one who believes that the sales tax as such should be abolished, and I have been agitating and working for it because the sales tax directly hits the ordinary poor sections of the people. Unfortunately, I am not going to demand that out of this Bill, because it may not be possible, because it is beyond the scope of the Bill, but I would suggest that once the attempt is being made to avoid taxing certain essential goods, let us see whether we are adopting a fair approach to all the essential goods that are there. Here for instance, now in this Bill it is stated, of course to save the handloom products, coarse and medium handloom and mill-made cotton cloth and handloom woollen cloth are included, and in the next item, cotton of several varieties, *kapas* etc., are included, but why is yarn excluded? We are excluding cotton from the operations of the sales tax, and also other handloom-products. Without yarn, there cannot be any handloom products at all. And today the lot of the handloom weavers in the South is such that they are the worse affected. Out of the five lakhs of handloom weavers in Madras State, I can say without any fear of contradiction, more than 2½ lakhs are unemployed today, and they are on the verge of beggary. The handloom weavers do not get yarn today, it has become a problem. I would therefore suggest that yarn is rightly to be included in the Schedule, and I hope that the hon. Minister will look into the matter.

Some hon. Members have suggested that oil and soap products must be included. I also support that demand because oil and soap products are the needs of the ordinary man today, and in the South I can say oil is a part of food today. It may not be all oils, but anyhow, cocoanut oil, gingelly oil and such other oils are used for cooking and it is part of the food.

[Shri Nambiar]

So also the question of sugar. In the case of sugar, an hon. Member suggested that it must be added, and I say that this must be added. I am making these points because when once we approach the issue that food should not be touched, then let us take the average man's food. I do not say the food of a luxurious type. Sugar or oil are not luxurious foods. They are part of an ordinary man's food.

In item No. 8 it is stated coal and other petroleum products are excluded. When it comes to electrical energy, it is stated electrical energy used for domestic purposes can be excluded from tax, whereas electrical energy used for certain industries is to be taxed. I do not know why there is this distinction. For instance, coal itself produces electrical energy and coal is excluded, whereas electrical energy which may come from the Pykara project or which may come from any other source, if it is used in an industry, a cottage industry or a flour mill or some such other thing, but not for domestic purposes, why should it be excluded? Therefore, it must get a tax-free chance like many other items. Therefore when once we approach the whole issue on the basis that the measure has to be beneficial to the ordinary man who cannot pay more, then we must take the whole point into consideration, and not haphazardly deal with some aspects here and there saying that we are considering only certain goods as essential and taking them out of the orbit of the sales tax. Therefore reserving my opinion that the sales tax as such should go, and without approaching that subject here and now, I say that these items also should be included in the Bill, so that the ordinary man in the street may be benefited straightway.

Sardar Hukam Singh (Kapurthala-Bhatinda): I should like to know whether the intention of the Bill is to exempt certain articles from sales tax. I understood it to be different. I should like the hon. Finance Minister to explain that point.

Mr. Chairman: I think the hon. Member should wait for the reply of the hon. Minister at the end.

Shri R. K. Chaudhury (Gauhati): I admit that I did not quite follow the principle of this Bill. When a big boy does not understand things, he becomes a big dunce. When Assam is pronounced as Ass-am, then one begins to realise that he has been a great ass indeed. But for any reasons other than

this, he had put his faith in the Finance Ministers. They have always been elusive. They are sweet when they speak in the House, but they are not as sweet when they pass their orders.

Recently I have come across a few lines of poetry about the hon. Finance Minister, which I may be allowed to recite:

देश की भलाई रहा उस का लक्ष्य
देश की उन्नति रहा उस का उद्देश्य
दुनिया के आदमी के दिल में हुआ सूख
नाम दिया उनको देश मुख ।
लेकिन खो अभी क्या हो रहा
दुनियां में आ गया बहुत दुःख,
अपने देश को भूल गया देशमुख ।

[His aim has been the good of the country, his object prosperity of the nation. The people were pleased with him and gave him the name of Deshmukh.]

But see what is happening around us today? The world is very unhappy. Deshmukh has forgotten his country.]

I understand that my hon. friend the Finance Minister showed signs of patriotism in his early childhood, when God had blessed him with that, but (unfortunately the crossing of the seas and the fact that he at one time belonged to the heaven-born service led to certain changes in him by degrees so that he has now become the Finance Minister of a somewhat stone-hearted species) I would say this again in the interests of Assam.

Pandit Thakur Das Bhargava (Gurgaon): Is the Finance Minister under discussion or the Bill?

Mr. Chairman: I have allowed the hon. Member a certain amount of latitude. May I suggest to the hon. Member now to go on with the consideration of the Bill before the House?

Shri R. K. Chaudhury: I find in the Bill that the articles *andi* and *moonga* have not been included, with the result that it will be open to any Provincial Government to subject them to sales tax. I do not know whether the hon. Finance Minister has come across any *andi* or *moonga* cloth. I know that the hon. Minister of State for Finance greatly encourages this industry and

he occasionally flatters that Province by using *andi* sometimes. That is a very important industry. I think it is quite unjust that it should be subjected to sales tax.

Another point to which I would like to draw the attention of the hon. Finance Minister is this. Although other edible oils have been included in the Bill, and have been excluded from the operation of the sales tax, fish which is the common food of people living in the eastern zone of India has not been included in this Bill; it affects the interests of the poorer section of the people. I am submitting in the interests of those who are not vegetarians that fish also should be included in the Bill. I know that the majority of this House may be vegetarians, and therefore they may not care to think of fish as being an important item of food. If they had only tasted and seen how fish and rice go together, they would. I am sure, be converts to this kind of food, and would have realized the importance of excluding fish and meat also from the purview of sales tax.

What about eggs? In these days, it may be difficult of grow more food consistently with the growing population. While such is the case with cereals, there is no limit to the growing of food like fish. If fish-culture is attended to more seriously. I submit that a substantial portion of the food problem would be solved. I think the vegetarians also will agree to take eggs as an item in their daily food. In Western countries, egg is considered to be an item in the vegetarian food. I think it is important that we should seriously take this aspect of the matter into consideration when we are out to solve the food problem.

In the interests of the womenfolk of India, I would like to make a few suggestions, if the House does not mind it. It has been stated that I am a woman-hater. [I have approached in this House one of two ladies, they have been kind enough to disagree, and the House may be delighted to know that they are not all old ladies.]...

Shri S. S. More (Sholapur): Is this the subject under discussion, Sir?

Mr. Chairman: The hon. Member may proceed with his suggestions.

Shri R. K. Chaudhury: I wanted to say that every Hindu woman, according to religious usage, is bound to put some vermilion on the forehead. Every married woman must have the vermilion on her forehead. [So this item which must be used by all women in 60 P.S.D.

India, particularly married women, should never be subjected to any kind of tax.] This is a matter of religion, this is not merely a matter of decoration. This is not like lipstick. Of course, lipsticks may be used now-a-days on a larger scale than before. I am not suggesting that lipsticks should be entirely exempted because those who use lipsticks are financially in a position to do so; it is only the fashionable kind of ladies who use them. But I submit, Sir,—and I should be taken seriously in this matter—[putting vermilion on the head and forehead is a religious act and also it is a protective act, in the sense, we have found in law courts, that if a man is found to entice a woman who had vermilion marks on her forehead, the presumption is that the accused knew that she was a married woman.]

If one reads section 497, item (c), it can be seen (*Interruptions*).

Mr. Chairman: Pandit Thakur Das Bhargava.

Shri R. K. Chaudhury rose—

Mr. Chairman: I have called upon Pandit Thakur Das Bhargava. The hon. Member has exhausted his points.

Pandit Thakur Das Bhargava: The objects of the Bill have been given shortly in the Statement of Objects and Reasons. They seem to be two. (*Interruptions*).

Mr. Chairman: Silence, please.

Pandit Thakur Das Bhargava: The first is uniformity of law and secondly, that certain essential goods be not taxed. These seem to be the two principles of this legislation. When I come to this Bill I find that there is a clause—No. 3—in this Bill which is exactly in the same words as article 286(3) of the Constitution, with a very small difference. Article 286(3) of the Constitution and clause 3 of the Bill have only one difference. In this clause, the words used are: "No law made after the commencement of this Act...". These are the only words—"after the commencement of this Act"—which differentiate this clause 3 from the provisions of article 286(3) and they constitute a very big difference. In fact, if we did not have this clause 3 in this Bill, nothing would be lost because when we have got article 286(3) of the Constitution we need not repeat this clause 3, except for this that perhaps the Government wants that the Acts hereinbefore passed by any Legislature may not come within the mischief of this Bill. I understand that the Constitution wanted that in respect of three matters restrictions be placed on the right of the Legislature of a State. The heading of article 286 is "Restrictions as to

[Pandit Thakur Das Bhargava]

imposition of tax on the sale or purchase of goods". Now the first clause of this article 286 reads thus:

"No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—

(a) outside the State; or

in the course of the import of the goods into, or

export of the goods out of, the territory of India."

May I humbly enquire from the hon. Finance Minister if this article 286(1) is capable of this interpretation, that if there is any law in existence which seeks to tax things which are prohibited by article 286(1), whether that will be good law? In my humble opinion, that law will not be good, and there is a prohibition against the validity of such laws. Similarly, when we proceed to article 286(2), we find that so far as inter-State trade etc. is concerned, again there is a prohibition, and an absolute prohibition; but to take away the effect of that absolute prohibition, a proviso has been added so that certain Acts were saved up to a certain date.

Again in regard to clause (3), the question arises whether this can be interpreted as having retrospective effect or not. My humble submission is that the point is not free from difficulty. Perhaps the better opinion may be what the Government have obtained—I am not dogmatic about it—but I propose to lay some points for the consideration of the hon. Finance Minister for what they are worth. My humble submission is that, taking the whole article—article 286—and the 'general spirit' of the Constitution, in the words of Dr. Ambedkar used in another context, it appears that the intention was to put restrictions on the powers of the Legislatures in regard to levying certain taxes on the sale or purchase of goods. In regard to things which were declared to be essential for the life of the community, the presumption is that the Constitution wanted that those articles should not be taxed. Even now this is the principle of this Bill also, and I would submit that unless and until the words of the legislation are absolutely clear, indisputably clear or almost conclusive, the interpretation should be what the real intention of the framers of the Constitution was. I know certain objections have been raised to this interpretation and I will come to that

subsequently. But my submission is that if you kindly read just these four lines, the effect is the one which I am submitting should be the right interpretation of this clause. It runs thus:

"No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect..."

Which in clear language means that no law which exists at this date which imposes a tax on any article which has been declared by Parliament by law to be essential is good—whether that law is there existing or has been subsequently made—unless it has been reserved for the consideration of the President and received his assent. Now, when a Bill is put in my hand, I will ask the simple question, whether this Bill was reserved for the consideration of the President and assent had been obtained. If it did not receive his assent, then the Bill is of no effect. I know that an argument was put forward that the President did not come into existence at the time when the offending Bill was passed; it will be said the Legislature of the State did not come into existence before the Constitution was made. This is an argument but I know at the same time that so far as the words go, the question of absurdity—*argumentum ab inconvenienti*, as it is called—has no force. Supposing there is a law that people having blue eyes should be killed, it may be wrong but it has to be obeyed. I am not at all influenced by the consideration that, as a matter of fact, the President did not come into existence before these laws putting taxes on essential articles were passed. The only question for me will be whether a particular Bill which levies such taxes was reserved for the consent of the President and that consent has been received. The fact that the President did not come into existence makes the argument still stronger, which means it could not have been possibly reserved for the consideration of the President and possibly no consent could be given. So, my submission, on an *a priori* reading of this article is that it has got no retrospective effect. The words "legislation of a State" have a general connotation and they were used in no technical sense. I am not putting a dogmatic interpretation on it. I am not saying that the other side have got no argument. But the possible effect of the legislation should be considered. I therefore think that we would be well advised to have

only clause 2 and leave it to the Supreme Court or some other court to interpret the law as they find it. If clause 3 is not there, nothing will be lost. Only the courts will interpret the Constitution and not the Legislature. It is not the business of the Legislature to interpret the Constitution; it is the business of the courts. Now, if you refer to article 288 of the Constitution as well as the proviso which I referred to just now, it will appear that the contention which I am putting forward for the consideration is not so absurd as perhaps the proponents of the other view might think. If you refer to article 288, you will be pleased to see that the words are more specific. Clause (1) says:

"Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition....."

and so on, and, further, in clause (2) we find similar words. My submission is that if it had been the intention of the law that all the previous laws were to be saved, the law would have declared like this: "No law hereinafter made by a State....." and so on, or the phraseology of article 288 could have been adapted very easily. The phraseology is not there, and when I read the whole Chapter at one time, I come to the conclusion that the intention of the Legislature was to impose restrictions on the powers of the States in respect of taxation of certain articles which are essential for the life of the community. My submission is that even if my contention is not accepted, nothing will be lost if clause 3 is not enacted, because it is unnecessary to enact it, because it is in the Constitution—article 286(3). We have got that provision and we need not re-enact it in clause 3. It is not necessary to do so unless you want to give a handle to those Legislatures which have already passed laws to stick to those laws. On the contrary, I very respectfully submit to the hon. Finance Minister that the interests of the country require that he should use his influence with all such States to get such laws, if they are valid, abolished. After all, the mere accident that one State had passed a law before should not give any sort of preference or advantage to it which is not open to the other States. In the interests of uniformity, which has been accepted as the guiding principle of our legislation, we should see that in all the States there is a uniform law so far as this question of taxation on goods essential for the life of the com-

munity is concerned. I would not be satisfied if those States only are allowed to tax those essentials while other States are not allowed to do so. This is all that I have to submit with regard to the subject matter of this Bill.

Now, coming to the Schedule, I respectfully submit one or two points for the consideration of the Finance Minister. In the first place, I would call attention to article 369 of the Constitution. Article 369, as a matter of fact, relates to articles which are essential for the life of the community. In clause (1)(a) we find:

"Trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginced cotton or kapas), cotton seed, paper (including newsprint), foodstuffs (including edible oilseeds and oil), cattle fodder (including oil-cakes and other concentrates), coal (including coke and derivatives of coal), iron, steel and mica;"

My submission is that we have heard so many speeches in this House urging the inclusion of various items of foodstuffs in this Schedule. Some wanted to include fish; others wanted certain other items. I do not know whether those who come from other States would like to see included in this Schedule such foodstuffs as do not come within the definition of cereals and are very generally used by the inhabitants of those States. I respectfully ask the hon. Finance Minister to use the phraseology "foodstuffs". "Foodstuffs" will include everything. And there is a good reason why foodstuffs should be included so far as this Schedule is concerned. Moreover, the House will be pleased to see.....

Mr. Chairman: Does the hon. Member want to make a new point?

Pandit Thakur Das Bhargava: There is no question of new points. So long as the Bill is there and there is no repetition of arguments I am entitled to continue my speech.

Mr. Chairman: I would like to know how much time the hon. Member will require.

Pandit Thakur Das Bhargava: I do not want to take very long; I will finish very soon. But at the same time I very respectfully submit that when a Member is speaking on a Bill he is entitled to go on.....

Mr. Chairman: I knew that. I merely wanted to know how long he would take.

Pandit Thakur Das Bhargava: I will finish in two or three minutes. I have come to the Schedule.

I was submitting that if the Finance Minister takes the phraseology of clause (a) of article 369 of the Constitution as the basis—he will find that that clause includes all those articles which the Constitution-makers considered essential for the life of the community and in respect of which the Central Government was authorised to make laws—if he takes that phraseology as the basis, then much of the criticism will disappear. But if he does not agree to this suggestion, he should kindly agree to include fodder, because it is an essential article; then again, oilseeds and oil are very necessary and should be included. Paper is not mentioned in the Bill. Text-books are essential for the life of the community. I would beg of the Finance Minister to include such things as are in ordinary use by the poorer sections of the people.

I am fully cognizant of the fact that if we include many things in this Schedule, that will be taking away the powers of the States, and we want that so far as the States are concerned, their powers should not be taken away arbitrarily. Thus we have to strike a balance between exemption of essential things and the power of the States to tax others, and I would respectfully ask the Finance Minister to include only those articles which are essential for the life of the community.

I do not agree with my hon. friend who spoke before me when he says that so far as the sales tax is concerned, it is obnoxious. On the contrary, it is necessary only that we should exclude essential articles from the list and no more sales taxes are levied all the world over.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Sir, with your permission, I beg to move:

“That in the motion for reference of the Bill to a Select Committee, the name of Shri N. R. M. Swamy be added.”

Mr. Chairman: The question is:

“That in the motion for reference of the Bill to a Select Committee, the name of Shri N. R. M. Swamy be added.”

The motion was adopted.

Shri S. S. More: May I ask, Sir, how can this amendment be made? How can it come at this particular stage?

Mr. Chairman: The amendment can come at any stage. What is the objection?

I am under the impression that the hon. Members are not anxious to carry on the discussion. After all, my idea was that the Bill will come again from the Select Committee.

Shri T. N. Singh (Banaras Distt.—East): This verdict of the House which you have got will vitiate the further discussion. I think we have not taken any decision.

Mr. Chairman: No, that is not a decision. The amendment was only with respect to the addition of one more Member to the list of the Members of the Select Committee.

Sardar Hukam Singh: It is perfectly in order. We were discussing the motion that was moved by the hon. Minister that such and such names should be included in the Select Committee. The amendment is to the original motion that in those names one more name be added and now that would be taken as the Select Committee. So there is no harm in increasing the number by one man. The discussion should continue.

Mr. Chairman: As a matter of fact it does not affect the proceedings in any way. It only adds one more Member to the list.

Pandit Thakur Das Bhargava: Sir, the way in which this has been done is quite perfect. This is the proper procedure. One more Member has been added to the list of the Members.

Mr. Chairman: Does any hon. Member wish to speak?

Shri M. S. Gurupadaswamy (Mysore): Sir, I do not like to take much time. I will touch upon only the Schedule and the goods that are declared as essential. In the Schedule I do not find any mention of handloom silk cloth. That is a very important and essential article of consumption. Silk is perhaps regarded as a luxury article. But I may submit there are various varieties of silk cloth. Some silk fabrics are quoted at very low prices and they are meant for the ordinary man. After all a man usually desires to wear cloth which is fine; and my submission is that handloom silk cloth also may be included under the Schedule.

My another submission is that the Finance Minister has not taken care to see that jaggery is also an essential article of consumption. Sugarcane is of course declared essential but the product of sugarcane, jaggery is also equally essential. Some of my friends argue that sugar is very essential and it should be declared so. But if sugar is to be declared as essential, I say that jaggery is more essential than sugar. (An Hon. Member: I also agree). Therefore, I submit that both

jaggery and sugar may be included in the Schedule.

1 P.M.

Some of my friends wanted that oils and oilseeds should be declared as essential. I agree fundamentally with their arguments. But I specially mention that groundnut is a very essential article of consumption.

The House then adjourned till a Quarter Past Eight of the Clock on Monday, the 7th July, 1952.